

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

MYRON ELDON BUTLER,
TDCJ-CID NO.1147687,
Plaintiff,
v.

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CIVIL ACTION H-11-1797

SENIOR WARDEN K. STRONG, *et al.*,
Defendants.

OPINION ON DISMISSAL

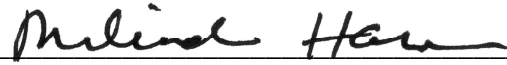
Plaintiff, a state inmate incarcerated in the Texas Department of Criminal Justice—Correctional Institutions Division, has filed a complaint pursuant to 42 U.S.C. § 1983. (Docket Entry No.1). Plaintiff has also submitted an application to proceed *in forma pauperis*. (Docket Entry No.1). Given his litigation history, plaintiff may not proceed in federal court as a pauper under the “three-strikes” provision of 28 U.S.C. § 1915(g). *See Butler v. Strong*, Civil Action No.H-10-5225 (S.D. Tex. Jan. 26, 2011). Plaintiff’s complaint does not reflect that he is under imminent danger of serious physical injury; therefore, he does not meet the exception to the “three-strikes” provision of § 1915(g). *See Banos v. O’Guin*, 144 F.3d 883, 884 (5th Cir. 1998). Accordingly, he fails to overcome the three strikes bar.

Because plaintiff has not paid the filing fee, the Court ORDERS that this complaint be DISMISSED without prejudice under 28 U.S.C. § 1915(g). Plaintiff may move to reopen this case if he pays the full \$350.00 filing fee within thirty days. Plaintiff’s motion to proceed *in forma pauperis* (Docket Entry No.2) and all other pending motions, if any, are DENIED.

The Clerk will provide a copy of this order to the plaintiff and a copy by facsimile transmission, regular mail, or e-mail to the TDCJ - Office of the General Counsel, Capitol

Station, P.O. Box 13084, Austin, Texas, 78711, Fax: 512-936-2159, and the District Clerk for the Eastern District of Texas, 211 West Ferguson, Tyler, Texas 75702, Attention: Manager of the Three-Strikes List.

SIGNED at Houston, Texas, this 17th day of May, 2011.

A handwritten signature in black ink, appearing to read "Melinda Harmon", is written over a horizontal line.

MELINDA HARMON
UNITED STATES DISTRICT JUDGE